

ZB# 97-41

Toyota of Newburgh

48-3-3.1

Prelim.

November 10, 1997.

Deed 4

Photos ✓

and 30.

Square Footage -

Public Hearing:

Nov. 24, 1997

Granted

Sign Facia

Variance

Refund due

\$ 373.46

#97-41 - Toyota of Newburgh, Inc.

48-3- ~~3.1~~ Sign

Whitcomb Jones • Cashiers • 2161-1031 Dupont • 2161-1031, 2161-1031

MADE IN U.S.A.
© Whitcomb Jones, 1989

DATE Nov. 14, 1997 **RECEIPT** 6772499

RECEIVED FROM Toyota of newburg

Address _____

One Hundred fifty 00/100 DOLLARS \$150.00

FOR ZBA #97-41

ACCOUNT		HOW PAID	
BEGINNING BALANCE		CASH	<u>#4168</u>
AMOUNT PAID		CHECK	<u>150.00</u>
BALANCE DUE		MONEY ORDER	

Town Clerk

BY Dorothy N. Hansen
DA

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Toyota of Newburgh, Inc.

FILE# 97-41.

RESIDENTIAL: \$50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA ☒ Sign

USE ☐

APPLICATION FOR VARIANCE FEE \$ 150.00

*

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*

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 500.00

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 11/10/97: 4 pages \$ 18.00

2ND PRELIMINARY- PER PAGE 11/24/97: 2 pages \$ 31.50

3RD PRELIMINARY- PER PAGE \$ _____

PUBLIC HEARING - PER PAGE \$ _____

PUBLIC HEARING (CONT'D) PER PAGE \$ _____

TOTAL \$ 49.50

ATTORNEY'S FEES: \$35.00 PER MEEETING

PRELIM. MEETING: 11/10/97 \$ 35.00

2ND PRELIM. 11/24/97 \$ 35.00

3RD PRELIM. \$ _____

PUBLIC HEARING. \$ _____

PUBLIC HEARING (CONT'D) \$ _____

TOTAL \$ 70.00

MISC. CHARGES:

Postage 22 letters @ .32 \$ 7.04

TOTAL \$ 126.54

LESS ESCROW DEPOSIT \$ 500.00

(ADDL. CHARGES DUE) \$ _____

REFUND DUE TO APPLICANT . \$ 373.46

due Applicant

Paid ck# 4168
11/13/97
Paid ck. # 4169
11/13/97.

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Toyota of Newburgh, Inc. DR.
2934 Route 9W, New Windsor, NY.

DATE	CLAIMED	ALLOWED
12/5/97	Refund - Escrow # 97-41	\$373.46

Approved: Patricia P. Bamhart
ZBA

In the Matter of the Application of
TOYOTA OF NEWBURGH, INC.

**MEMORANDUM OF
DECISION GRANTING
AREA VARIANCE**

#97-41.

WHEREAS, TOYOTA OF NEWBURGH, INC., a corporation having an office at 2934 (formerly 96) Route 9W, New Windsor, N. Y. 12553 has made application before the Zoning Board of Appeals for a 17 ft. sign width variance for a facade sign at the main showroom location in an NC zone; and

WHEREAS, a public hearing was held on the 24th day of November, 1997 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the president of the Applicant, Richard Gaillard, appeared before the Board for this proposal; and

WHEREAS, there were two (2) spectators appearing at the public hearing; and

WHEREAS, two (2) spectators spoke in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a commercial property located in a mixed commercial and residential neighborhood, but fronting on a multi-lane state highway. The neighborhood properties fronting on said highway are commercial in nature and the residential properties are behind the subject parcel.

(b) The building in question already has signage on the premises. The variances sought by the Applicant would permit it to replace the existing signage with new signage which will be no larger than the existing signage.

(c) The sign for which the variance is sought will face State Route 9W and will be on the other side of the subject premises from the residential area.

(d) The proposed sign will have back illuminated interior illumination lighting the individual letters but not the hole fascia.

(e) The Applicant proposes no change in the building in its elevation or outside dimensions.

(f) The road, State Route 9W on which the Applicant's premises is located, is a busy, high-speed, limited-access highway which requires any commercial premises located thereon to have adequate signage to announce their location to the adjacent motorists.

(g) The proposed sign was reviewed by the Board and appeared to be consistent with the signs already displayed in that neighborhood.

(h) The existing signage to be removed by the Applicant is contained on an awning on the building, all of which will be removed.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant which can produce the benefits sought.

3. The variance requested is substantial in relation to the Town regulations but nevertheless is warranted due to the peculiar nature and location of the property.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be permitted because of the location of the existing business and the fact that they are removing and abandoning the use of the existing signage, equal to or greater in size than the proposed signage.

6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community. This is especially true since the proposed signage will not face nor can it be seen by any users of the residential property behind the subject premises.

7. The requested variance is appropriate and is the minimum variance necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 17 ft. sign width variance for a facade sign at 2934 (96) Route 9W located in an NC zone as sought by the Applicants in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: January 26, 1998.


Chairman

Date 12/3/97, 19.....

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Frances Both 168 North Drury La DR.
Newburgh, Ny 12550

DATE		CLAIMED	ALLOWED
11/24/97	Zoning Board Mtg	75.00	
	Misc - 1		
	Penlight - 6 27.00		
	Diaz - 4		
	Toyota - 7 31.50		
	Mobil Oil - 24	189.00	
	<u>42</u>	<u> </u>	
		264.00	

PUBLIC HEARING:

TOYOTA OF NEWBURGH, INC.

Mr. Richard Gaillard appeared before the board for this proposal.

MR. NUGENT: Request for 17 ft. sign width variance for facade sign at 96 (2934) Route 9W (showroom) located in an NC zone. Anyone in the audience in regard to the Toyota of Newburgh, would you sign our sheet please?

MR. BABCOCK: He's the applicant.

MR. NUGENT: No, the lady in the back. Which building are we talking about?

MR. GAILLARD: This is the main showroom across from Anthony's Pier 9.

MR. KRIEGER: The older building?

MR. GAILLARD: The older building, so with upgrading the facility improvements, we were, I've got to follow some sort of the formality with Toyota so we had to put on a new facade and they want the letters and the way it sits there in Toyota of Newburgh on there so we chose to go with the individual sign variances because of the actual length to go for a variance of almost 70 feet, choosing the individual ones with each letter and, you know, we were still being a franchise we're more or less quote unquote forced into conforming with the standard so--

MS. BARNHART: For the record, I sent out 22 addressed envelopes to all the property owners who were on the list.

MR. KRIEGER: I see currently two individuals who signed?

MS. BARNHART: Yes.

MR. NUGENT: Does the board have any other questions right now? At this time, I'd like to open it up to the

public. If you'd like to make a comment or say anything, now is your chance.

MS. CATHERINE CONKLIN: I oppose anything that Toyota wants to do. In the beginning, I bought my house in '78, you could walk up and down that street without a car racing up and down. You tell them to slow down, they give you the finger. You call up down there they don't want to talk to you. Number one, they are using, I don't know how they got the right-of-way to use the road where children are playing. My children are grown. But there is other children in the neighborhood and one of these days somebody's going to get killed. I have complained and complained about this. Our home, neighborhood has, we have got nowhere, not even with the board. They tell you to call the police. By the time the police come, it's done with. They say they didn't do it. Tractor and trailers go down our road. When I first bought my home in New Windsor, I thought it was going to be a quiet, nice place to live. When I brought my children up, it was quiet. Since they got the right-of-way to use our road, it's a disaster there. In the wintertime, I have a terrible time parking, getting out of my driveway cause they park right on the side and nothing is ever done, believe me nothing and I have called up to you, Mr. Meyers, plenty of times and I got nowhere.

MR. NUGENT: I'm not Mr. Meyers, we really don't have anything to do with the parking on the road. We're the zoning board.

MS. CONKLIN: We were told when they first put the building there they were going to use 9W when they started using the road, they claim they sent letters out, not one person on my street received a letter, I did not receive a letter, I was not at the meeting to oppose that but yet they got away with it. And I'm telling you people you better listen because one of these days you're going to have a child dead on that street because they take it, they race the cars when they test drive the cars and they don't care that they do it. And I'm telling you people it's the truth and when it happens, you people are going to have to answer to it because it's going to one of these summers the

children can't even go out there and ride their bicycles on the road any more. Like I said, my children are grown but I have a granddaughter. There is plenty of other small children on than street because couple of houses has been sold and they don't care, I'm telling you they do not care, you tell them to slow down. They don't care.

MR. NUGENT: Thank you.

MR. KRIEGER: Your residence is behind Toyota, that street?

MS. CONKLIN: I'm right behind Valcenti's Restaurant.

MR. KRIEGER: That street that you are talking about runs parallel to 9W but on the other side of the Toyota property?

MS. CONKLIN: Lafayette Drive right off 9W.

MR. KRIEGER: This sign that you are proposing faces 9W, correct?

MR. GAILLARD: Correct.

MR. KRIEGER: If it were granted, it could not be seen from that anybody on that street?

MR. GAILLARD: Correct.

MS. CONKLIN: Excuse me, here's what I am telling you, you say that now, okay, when you first built that building there the parts building it was told you were going to have use 9W. All of a sudden, you can use our road where we have children playing. But you say one thing and now turns around and something else happens cause that is exactly what happened with our road. You turn around and said one thing and then you're using the road for going and instead of using 9W, you use that road all the time. I knew something was up because you used to park the cars up and down the street. All of a sudden, most of the cars got off the road. I said to my neighbor something is up, Toyota wants something. And same thing going to happen now

you're going to say that and that sign is going to interrupt the whole neighborhood, just like the driveway.

MR. NUGENT: Sir, would you like to speak?

MR. PAUL SAVIK: I'm one of the individuals who recently purchased and I have three small children, one of which is still in diapers and can't get around too much. But my other two, they do and where I was living in Cornwall is on a dead-end dirt road and my children had free access to the road cause I had one neighbor and they are hardly ever there. My only concern is with the sign, is it going to bring more traffic onto the road that is already there? I personally have had discussions with several of the mechanics that do race around, not only in clients' cars but their own. The speed limit for some ungodly reason is 30 miles an hour on a dead-end road. I don't understand why but that is something that you cannot address, I understand that. My main concern is is there going to be more traffic on that road due to the sign because it's going to make your business more prevalent to the community thereby increasing your business. That is my main concern and I don't want my children being run over because I have had matter of fact two heated discussions with two mechanics and I started out being very nice and I was told this is a 30 mile an hour zone, I will do 30 and I told him point blank if you do 30 miles an hour again, I will step out in the road. And if you hit me, the law will be where it is. And that is my main concern that I don't have more increase in traffic on the road because I live directly opposite one of the entrances where they, I believe it's the north end of the shop and I don't need my children being hit. And I also have a problem with tool trucks being parked out in front of my house facing the opposite direction. My neighbor has gone out because I can't, I work, my wife does not, she's afraid to approach the individual. If I could do it, I'd be there and I'd ask the gentleman not to park there. And if you are the current owner of Toyota, I would ask you tonight in front of all of these other people that you would ask your tool delivery men not to park in front of my house because it's rutting my grass, destroying what I just bought

and I'm not happy about it.

MS. CONKLIN: Can I tell the gentleman one thing? Why don't you just solve your problem about having the entrance on 9W, that would solve your problem with all the neighbors in our neighborhood, don't use that road and we won't have a complaint.

MR. GAILLARD: Should I address?

MR. NUGENT: No. We're not a traffic department, unfortunately, we can't do anything about that at this point. I don't know where to even tell you to go to air your problems. But the man's only here for a sign variances, not anything to do with parking entrances or exits or anything else.

MS. CONKLIN: Where do we go?

MR. NUGENT: I don't know where to tell you to go.

MS. CONKLIN: You don't know where to tell us to go?

MR. TORLEY: Town board.

MR. NUGENT: Go to the town board. Air to the town board same as you did here tonight next Wednesday.

MS. CONKLIN: What time?

MS. BARNHART: At 7:30.

MR. TORLEY: Not the Wednesday.

MS. BARNHART: December the third, I believe.

MR. TORLEY: December 3, 7:30.

MR. NUGENT: I'll close the public hearing and open it back up to the board members. Are there any further questions?

MR. TORLEY: Regarding the sign, no.

MR. NUGENT: Is this a lighted sign?

MR. GAILLARD: Yes.

MR. NUGENT: Back illuminated interior illumination?

MR. GAILLARD: Right, not fluorescence, it's back lit on a timer.

MR. NUGENT: Just the individual letters?

MR. GAILLARD: Correct not the whole fascia.

MR. KANE: Do you know what the timer runs?

MR. GAILLARD: Timer goes off at midnight along with the other, we have a few others.

MR. KRIEGER: This proposed sign would face 9W and 9W itself is commercially developed?

MR. GAILLARD: Correct.

MR. KRIEGER: In the neighborhood around where you are?

MR. GAILLARD: Exactly.

MR. KRIEGER: Obviously, there is residential behind the building, but this would face the commercial road?

MR. GAILLARD: Ah-huh.

MR. KRIEGER: You're going to remove something when you put this up?

MR. GAILLARD: There was just a vinyl awning over the entrance and that was--

MR. KRIEGER: There was writing on the awning, is there not?

MR. GAILLARD: Well, there was and it's since removed.

MR. KRIEGER: Okay, but that would be that signage is contained on that awning would be removed?

MR. GAILLARD: Right.

MR. KRIEGER: Would there be any change in the elevation of the building?

MR. GAILLARD: No.

MR. KRIEGER: Or its outside dimensions?

MR. GAILLARD: No.

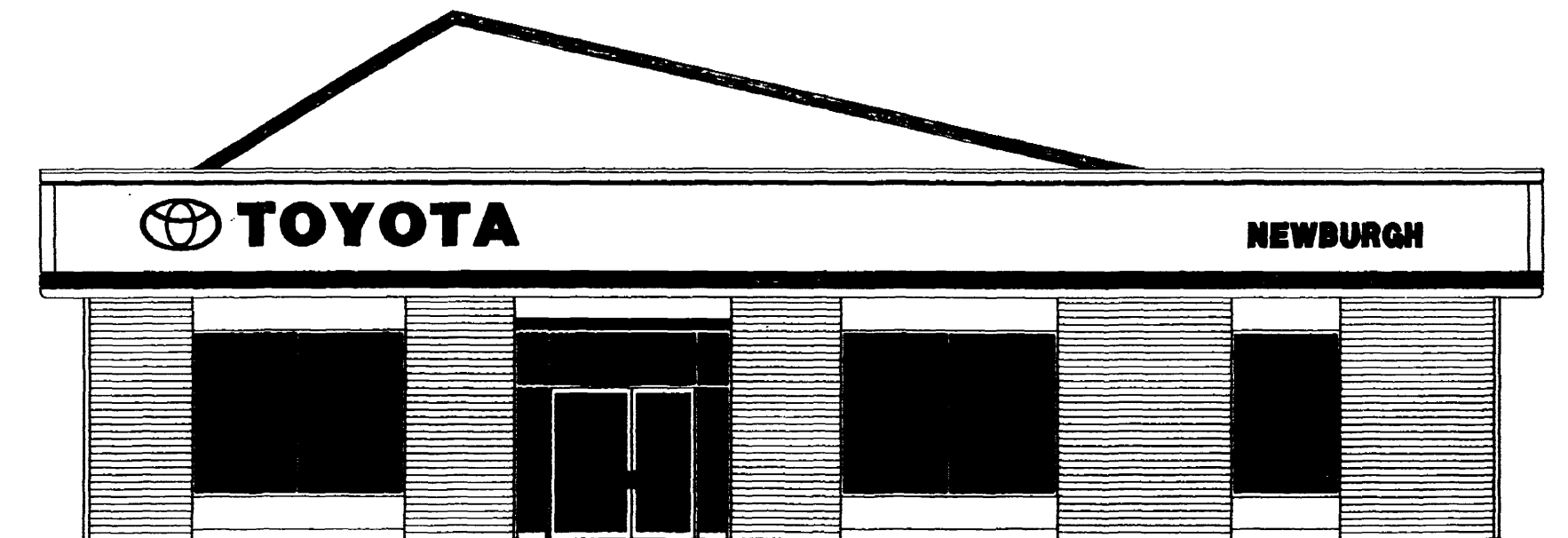
MR. NUGENT: Any further questions? I will accept a motion.

MR. TORLEY: Move we grant Toyota of Newburgh their requested sign variance.

MS. OWEN: Second it.

ROLL CALL

MS. OWEN	AYE
MR. TORLEY	AYE
MR. KANE	AYE
MR. NUGENT	AYE



EXTERIOR ELEVATION
SCALE: ~~1/8" = 1'-0"~~ 1/4" = 1'-0"

OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

Prelim.

Nov. 10, 1997

#97-41

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

**APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (914)563-4630 TO
MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.**

DATE: 10/10/97

APPLICANT: George Gaillard
96 Rt 9W
New Windsor, New York 12553

561-0340
FAX - 1-5082.

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 10/10/97

FOR :

LOCATED AT: 96 Rt 9W (2934)

ZONE: N-C

DESCRIPTION OF EXISTING SITE: 48-3-^{3.1}~~2~~ Newburgh Toyota

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

- 1. Proposed Wall sign exceeds maximum permitted size.**

Frank Hill
BUILDING INSPECTOR

PERMITTED 2'-6" X 10'

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: N-C USE: 48-18-1-B-1

SIGN:

FREESTANDING:

HEIGHT: 2'-6"

82'

WIDTH: 10'

2027'

~~17'~~ 17' *

WALL SIGNS:

TOTAL ALL SIGNS:

FEET FROM ANY LOT LINE:

cc: Z.B.A., APPLICANT, FILE, W/ATTACHED MAP

Amended on 10/15/97.

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS

IMPORTANT

YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and under slab plumbing.
4. When framing is completed and before it is covered from inside and plumbing rough-in.
5. Insulation.
6. Plumbing final and final. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Permit number must be called in with each inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and per test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and there is no fee for this.

PLEASE PRINT CLEARLY

FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises

George Gagliardi

Town of Newburgh

Address

Phone

561-0340

Mailing Address

2934 Rt 9W New Windsor N.Y. 12553

Name of Architect

Marshall Rosenblum

Address

321 Rt 9W New Windsor N.Y. 12553

Phone

562 0220

Name of Contractor

Burns and Whalen Contractors

Address

339 Hudson St Cornwall-on-Hudson N.Y.

Phone

534 4113

State whether applicant is owner, lessee, agent, architect, engineer or builder

If applicant is a corporation, signature of duly authorized officer.

FOR OFFICE USE ONLY

Building Permit # _____

RECEIVED

SEP 30 1997

BUILDING DEPARTMENT

1. On what street is property located? On the Rt 9W East side of Rt 9W and 100' feet from the intersection of _____

2. Zone or use district in which premises are situated _____ Is property a flood zone? Y _____ N _____

3. Tax Map Description: Section 48 Block 3 L. 2-2

4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.

a. Existing use and occupancy Auto Sales b. Intended use and occupancy Same

5. Nature of work (check if applicable) New Bldg ☐ Addition ☒ Alteration ☒ Repair ☐ Removal ☐ Demolition ☐ Other ☐

6. Is this a corner lot? _____

7. Dimensions of entire new construction. Front 14' Rear _____ Depth 25' Height 10' No. of stories _____

8. If dwelling, number of dwelling units: h/a Number of dwelling units on each floor _____

Number of bedrooms _____ Baths _____ Toilets _____

Heating Plant: Gas _____ Oil _____ Electric/Hot Air _____ Hot Water _____

If Garage, number of cars _____

9. If business, commercial or mixed occupancy, specify nature and extent of each type of use _____

10. Estimated cost _____

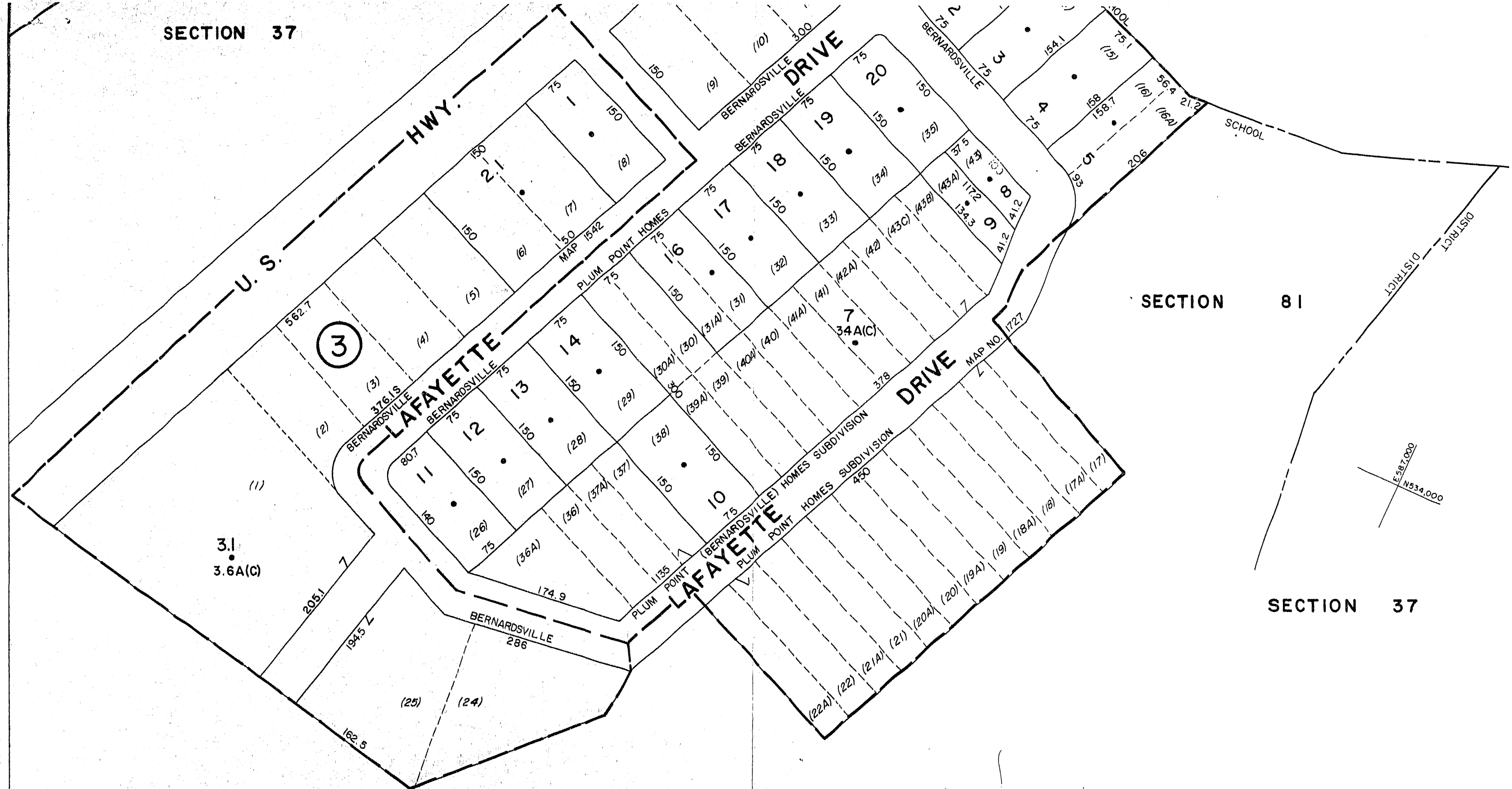
Fee \$50

(To be Paid on this Application)

11. School District Cornwall

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, including the cost of the land. A fee shall be paid in addition to the cost of the construction and other work done in connection therewith.

SECTION 37



SECTION 37

LEGEND

TAX MAP BLOCK NO.	④	FILED PLAN BLOCK NO.	② ①
TAX MAP PARCEL NO.	32	FILED PLAN LOT NO.	(13)
AREAS (Deed) 11.1A, (Calculated) 11.6A(C)		STATE HIGHWAYS	N.Y. STATE HWY. NO. 17
DIMENSIONS (Deed) as (Scaled) 755		COUNTY HIGHWAYS	COUNTY HWY. NO. 4

ORANGE COUNTY~NEW YORK

Photo No: 14-31, 32, 33

Date of Map: 9-24-67

Date of Photo: 3-1-65

Date of Revision: 3-1-97

TOWN C

Section N

11/24/97 Public Hearing: Toyota of Newburgh, Inc. #92-41

in the
objection
objection

Name:
Kathy Conder
Earl C. Savik Jr

Address:
1 Lafayette Drive
15 LAFAYETTE DR.

CC: Ap.

-----X

In the Matter of the Application of

TOYOTA OF NEWBURGH, INC.

DECISION
GRANTING AREA
VARIANCE

#93-20.

-----X

WHEREAS, TOYOTA OF NEWBURGH, INC., 96 Route 9W, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 12 ft. front yard variance in order to construct a second principal building in addition to the existing principal building, which will be used for additional service and office area, at the above location in an NC zone; and

WHEREAS, the applicant's aforesaid premises are located in both the NC zone and the R-5 zone since the zoning district boundary passes through the applicant's premises. The proposed construction which is the subject of this application is located on the part of the premises that lies in the NC zone; and

WHEREAS, the applicant previously submitted to this Board an application for use/area variances, and an application for sign variances, both affecting the subject property, and both applications were granted by decisions of this Board dated December 9, 1985 and January 23, 1990, respectively; and

WHEREAS, a public hearing was held on the 12th day of July, 1993, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the applicant was represented at said public hearing by Don Benvie of Tectonic Engineering Consultants, P.C., and by George Gaillard, President of Toyota of Newburgh, Inc. and Richard Gaillard, also of Toyota of Newburgh, Inc., all of whom spoke in support of the application; and

WHEREAS, there were no spectators present at the public hearing; and

WHEREAS, there was no opposition to the application before the Board; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant is seeking permission to vary the provisions of the bulk regulations relating to front yard in order to construct a second principal building at its

dealership located on Route 9W in an NC zone.

3. The evidence presented by the applicant substantiated the fact that a variance for less than the allowable front yard would be required in order to allow the construction of the second principal building at applicant's dealership to be used for the expansion of the service and office area, which otherwise would conform to the bulk regulations in the NC zone.

4. The evidence presented on behalf of the applicant indicated that the applicant is proposing to construct a second principal building of 10,000 sq. ft. at its site. Said proposed building will be free-standing and not connected to the present principal building. Said proposed building is deemed a second principal building, and not an accessory building because of its size and because it will house additional service and office/parts areas, which are integral parts of the applicant's principal use of the site.

5. The evidence presented on behalf of the applicant further showed that the subject parcel is "L" shaped and is bounded on all sides (except for the top of the "L") by streets, and in addition the parcel is bisected by a paper street (which has been dedicated to the Town of New Windsor).

6. The applicant proposes to locate its second principal building on the front portion of its parcel, near NY Route 9W, on the part of its lands which are located in the NC zone. The proposed use of the said second principal building is a permitted use in the NC zone if the required special permit is granted by the Planning Board.

7. The evidence presented on behalf of the applicant also indicated that it is necessary for the applicant to construct an additional service area because of requirements imposed upon applicant by Toyota Motor Sales, U.S.A., for which applicant is a franchised dealer. The layout of the service building must conform to Toyota's standard plans, which are based upon prescribed stall widths and aisle widths, and which in turn dictate the required building width.

8. Given the constraints imposed by the parcel shape, the multiple front yards, the zoning district boundary, and the required size of the proposed building, it is the finding of this board that the proposed location for this second principal building is the only practical location therefore on the parcel.

9. The applicant is applying for a 12 ft. front yard variance because the proposed second principal building is to be located only 28 ft. from Lafayette Drive. Although Lafayette Drive borders what, for practical purposes, would normally be considered the rear of the applicant's property, it is considered a front yard under the Zoning Law of the Town of New Windsor, New York, and the required front yard depth is 40 ft. in the NC zone.

10. The evidence presented on behalf of the applicant further indicated that the building could not be turned or

otherwise located on the parcel so as to eliminate the need for a variance or reduce the variance requested. It appears that alternate locations would increase the magnitude of the variances needed.

11. The evidence presented on behalf of the applicant indicated that if applicant were to apply for a lesser size building, in order to conform to the bulk regulations, this would result in a building which would not be functional and would not conform to the size and layout of the service area which is deemed necessary at this site by Toyota Motor Sales, U.S.A. The proposed building size and footprint are the minimum deemed necessary by the applicant for an efficient and profitable operation.

12. The evidence presented by the applicant indicated that the neighborhood surrounding the subject site is devoted to mixed commercial and retail services as well as to residential use. The properties in the neighborhood fronting on NYS Route 9W (a divided four-lane highway) are used for a restaurant, motel, funeral parlor, commercial catering establishment, retail stores, auto and boat sales, auto body shop, service station, tennis and health club and bowling alley. The properties in the neighborhood to the rear of the subject property are devoted to residential use and to New York State owned mixed recreational-greenway-conservation uses.

13. It is the finding of this Board that the proposed second principal building, which will be devoted to a use permitted in the NC zone, if the required special permit is granted by the Planning Board, will expand the scope of the applicant's service and office operations but will not generate substantially greater impacts on the neighboring properties than are presently generated by the applicant's operations on the sites.

14. It is the finding of this Board that, given the constraints of the site, the proposed location for the second principal building is the only practical and suitable location therefore and has the least adverse impacts on the neighborhood and the applicant.

15. Given these factors, it is the finding of this Board that the proposed addition will not have an adverse effect on property values in the neighborhood.

16. The evidence presented by applicant substantiated the fact that the variance, if granted, would not have a negative impact on the physical or environmental conditions in the neighborhood. The dealership has been located in the area since the early 1980's and since there were no spectators appearing at the public hearing, this is a good indication that adjacent neighbors do not harbor adverse opinions regarding the applicant's present operations or its proposed construction.
~~dealership.~~

17. It is the finding of this Board that the proposed front yard variance is not unreasonable and will not adversely impact

the public health, safety and welfare.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties. The parcel is presently being used for uses permitted in the NC zone, either by right or by special permit of the Planning Board, and the proposed construction is a permitted use, if the required special permit is granted by the Planning Board, and is consistent with the character of the neighborhood.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. The requested variance is not substantial in relation to the bulk regulations.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the applicant faces in conforming to the bulk regulations is not self-created. The siting of the building with double frontage requires the applicant to meet the more stringent requirements of two front yard setbacks instead of the single setback. If this were a rear yard, applicant would easily meet this requirement, but because of the configuration of the lot with respect to the existing roadways, applicant cannot meet that requirement and must seek a front yard variance.

6. It is the finding of this Board that the benefit to the applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

7. It is the further finding of this Board that the requested variance is the minimum variance necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested variance.

NOW, THEREFORE, BE IT

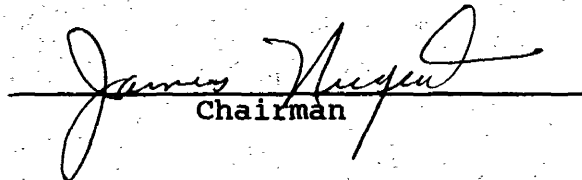
RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 12 ft. front yard variance for construction of a second principal building in addition to the existing principal building, which said second principal building will be used for additional service and office/parts area at the Toyota of Newburgh, Inc. dealership, at the above location in an NC

zone, as sought by applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: October 25, 1993.


Chairman

11/12/97

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Frances Roth 168 North Drury Lane DR.
Newburgh NY 12550

DATE		CLAIMED	ALLOWED
11/01/97	Zoning Board Meeting	75.00	
	Misc - 2		
	Passaro - 4		
	Taggart - 4 18.00.		
	Valois - 6		
	Wahlbin - 3	85.50	
	<u>79</u>	<u>160.50</u>	

TOYOTA OF NEWBURGH, INC.

Mr. Richard Gaillard appeared before the board for this proposal.

MR. TORLEY: Request for 17 ft. sign width variance for facade sign at 96 (2934) Route 9W (showroom) location in an NC zone. What are you trying to do?

MR. GAILLARD: We have, we had to put a, being a franchise dealer, we had to put on a new fascia. Toyota is making all their dealers basically put on new fascia which we have done and we used to have an existing awning in the front and then we had to replace and in replacing the awning, they want Toyota and then on one side then Newburgh on the other existing right on the fascia so--

MS. BARNHART: Can you get that changed to New Windsor?

MR. TORLEY: You're the Town of New Windsor.

MR. GAILLARD: Probably be more letters though wouldn't it?

MR. TORLEY: But saying New Windsor in the Town of New Windsor is a little easier to sell to people.

MR. GAILLARD: I will bring it up before them.

MR. KANE: So the 17 foot width is specifically to add the Newburgh on the other?

MR. GAILLARD: To be honest with you, I'm not exactly sure what Toyota and the Newburgh encompass in square footage.

MS. BARNHART: He changed the numbers.

MR. GAILLARD: We changed the numbers, we did an individual sign variance, I believe because the fascia is actually almost 60 or 70 feet long so we'd be going for a 300 square foot variance instead of just doing the individual letters of what the Toyota I think the Toyota letters are going to be, I have it written down,

I'm sorry.

MR. KANE: At the public hearing if you'd bring it.

MR. KRIEGER: What kind of background, just letters on the building?

MR. GAILLARD: Yeah, they are going to be illuminated letters on the building, they are not neon.

MR. KRIEGER: So just interior illuminated fluorescent?

MR. GAILLARD: Exactly. Looking at the building, it would be Toyota on the left-hand side and Newburgh in black smaller letters on the right-hand side.

MR. TORLEY: And see the brick?

MR. GAILLARD: Yeah, actually it's going to be ^{line} bear in front between the two.

MR. TORLEY: And the letters don't go above?

MR. GAILLARD: The canopy or we built like a canopy out front.

MR. KANE: When you come in for the public hearing, can you bring in a layout?

MR. GAILLARD: It's not in with that?

MS. BARNHART: If you brought it, it should be attached to the application that you made, Rich, I don't think they--

MR. GAILLARD: I'm sorry, I thought it was there.

MS. BARNHART: Mike isn't here either so if he was here--

MR. GAILLARD: I had them, I thought we had.

MR. KRIEGER: Again, at the public hearing, you have been before us before, you know.

MR. GAILLARD: Yes, just a formality.

MR. KRIEGER: Board can always say no.

MR. REIS: Rich, are you replacing any signs that exist now?

MR. GAILLARD: We used to have Toyota of Newburgh on the awning and the awning is now removed, so whatever the square footage the awning is actually eight feet wide so--

MR. KRIEGER: In effect, you're replacing the sign?

MR. GAILLARD: Yeah.

MR. TORLEY: Did you have a variance for that before, maybe it's covered?

MS. BARNHART: Yes.

MR. GAILLARD: I'm sure we did.

MR. TORLEY: Is this covered?

MS. BARNHART: Well, the building inspector gave us what he thought was necessary after he calculated everything so that is all he's looking for.

MR. KRIEGER: This is right on the building as I recall, the building is set back some distance from the highway?

MR. GAILLARD: Oh, yeah, yeah, it's, I don't know, 70, 80, 100 feet back. So like I said, Toyota's making all the dealers do they call an Image U.S.A., they are trying to get all the dealers to look uniform, we still are a franchise so we have to do it.

MR. KRIEGER: You should understand this board doesn't care about Toyota and their particular corporate desires.

MR. GAILLARD: Correct.

November 10, 1997

9

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: Make a motion that we set up Toyota of Newburgh, Mr. Rich Gaillard for his requested variance.

MS. OWEN: I will second it.

ROLL CALL

MS. OWEN	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

MS. BARNHART: Just bring us the total amount of signage that is going to be up.

MR. GAILLARD: It's not written on there, I thought I gave it to you.

MR. KRIEGER: And if you would address yourself to these criteria set forth on this sheet.

MS. BARNHART: It's in his file but he didn't show up tonight so we're lame without that.

MR. GAILLARD: Do I have to stay around for the formal decisions?

MR. TORLEY: No.

MR. KRIEGER: You have to come back.

MR. TORLEY: You're welcome to stay if you want.

MR. GAILLARD: No, I'll find something better to do. Take care.

(1985)

85-39. Application for Use and Area variances.

Applicant: TOYOTA OF NEWBURGH
Route 9W
New Windsor, N. Y. 12550

Applicant intends to construct (1) new 1 story structure for auto service and repair and (2) new 2 story structure for auto parts sales and office.

Preliminary meeting: 10/28/85

Engineer: SHAW ENGINEERING
162 Grand Street
Newburgh, N. Y. 12550
(914) 561-3695

Ordered list from Assessor: 10/03/85. - Received list containing 22 names and addresses of property owners.

Section: 48 Block: 3 Lot: ^{2.2}3 (existing building thereon)
48 Block: 2 Lot: 6.2 (new structures to be built)

Applicant requires: (1) 20 ft. front yard on 9W - 48-12. - Col. 6
(2) 20 ft. front yard on Lafayette Ave. "
(3) 6 ft. building height 48-12. Col. 10
(4) Use variance for car storage in R5
zone - 48-9. Table of Use. - Col. A.

Zone: (1) R-5

(2) R-5 to near

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
APPLICATION FOR VARIANCE

97-41

Date: 11/10/97

I. Applicant Information:

- (a) TOYOTA OF NEWBURGH, INC., 2934 Rt. 9W, New Windsor, N. Y. 12553 x
(Name, address and phone of Applicant) (Owner)
- (b) - _____
(Name, address and phone of purchaser or lessee)
- (c) - _____
(Name, address and phone of attorney)
- (d) Marshall Rosenblum, 321 Rt. 9W, New Windsor, N. Y. 12553
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☐ Use Variance ☒ Sign Variance
- ☐ Area Variance ☐ Interpretation

III. Property Information:

- (a) NC 2934 Rt. 9W, New Windsor, N.Y. 48-3-3.1 3.6 acres +/-
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? R-4
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 10/11/84
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? Yes
If so, when? 6/17/93
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: N/A
- _____

IV. Use Variance. n/a

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____
- _____

n/a

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application. n/a

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No x.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance: n/a

(a) Area variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(You may attach additional paperwork if more space is needed)

VI. Sign Variance:

- (a) Variance requested from New Windsor Zoning Local Law, Section 48-18, ~~Table of~~ Suppl. Sign Regs., ~~Col.~~ _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1 - Facade: Width	<u>10 ft.</u>	<u>27 ft.</u>	<u>17 ft.</u>
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

The facade sign depicting "Toyota - Newburgh" will be constructed of materials with interior illuminated fluorescent lighting. This sign will replace the fascia sign which presently exists and is the recommended sign which all dealers are specified to utilize by the Toyota franchise. The requested variance for the sign will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

Toyota Lettering: 17.70
Newburgh " 22.4 Total: 40.10

VII. Interpretation. n/a

- (a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.
- (b) Describe in detail the proposal before the Board:
- _____
- _____
- _____
- _____
- _____

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

(See attached plan)

IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☒ Copy of contract of sale, lease or franchise agreement.
- ☒ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☒ Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$150.00 and the second check in the amount of \$500.00, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: November, 1997.

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.


(Applicant)

By: Richard Gaillard
TOYOTA OF NEWBURGH, INC.

Sworn to before me this

13th day of November, 1997.



XI. ZBA Action:

(a) Public Hearing date: _____

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1999.

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

PUBLIC NOTICE OF HEARING

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 41

Request of TOYOTA OF NEWBURGH, INC.

for a VARIANCE of the Zoning Local Law to Permit:

17 ft. sign width variance for a facade sign;

being a VARIANCE of Section 48-18-Supplementary Sign Regulations

for property situated as follows:

2934 (formerly 96) NYS Route 9W, New Windsor, New York, known as tax lot Section 48, Blk. 3, Lot 3.1.

SAID HEARING will take place on the 24th day of November, 1997, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

James Nugent, Chairman

GOSHEN. N. Y. 10924

NEW INFORMATION IN FIELD

33-1

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 11th day of October, nineteen hundred and eighty-four

BETWEEN JOHN SARCKA and MARIE SARCKA, husband and wife, residing at
171 River Road, New Windsor, New York,

party of the first part, and TOYOTA OF NEWBURGH, INC., and New York State Corporation with
an office at Route 9W North, New Windsor, New York,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of -----

-----TEN----- dollars,

lawful money of the United States, and other good and valuable consideration, paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,

lying and being in the Town of New Windsor, County of Orange and State of New York
acquired by the Grantors from Ruth J. Iken and Lillian A. Bruno by deed dated
August 24, 1964 and recorded in the Orange County Clerk's Office in Liber 1677
of Deeds at page 203 on August 27, 1964.

T.D. 48-2-6.2

MORE specifically, the remaining portion of that ^{above} ^{now} parcel designated on the tax maps of the Town of New Windsor as Lot 6.2. together with any interest which the grantors may have in and to that strip of land lying between Lots 1 and 25, as shown on map entitled "Bernardsville, Town of New Windsor, Orange County, New York" made by Nial Sherwood, dated November 1951 revised March 20, 1952 and filed in the Orange County Clerk's Office on August 6, 1953 as map no. 1542.

Being lots #24 and #25 on said map.

LIBER 2302 PG 37

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof, **LIBER 2302 PG 38**

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

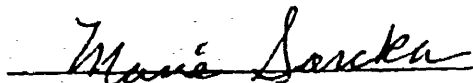
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:


JOHN SARCKA L.S.


MARIE SARCKA L.S.

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS
TITLE No.

JOHN SARCKA and
MARIE SARCKA

TO

TOYOTA OF NEWBURGH, INC.

SECTION
BLOCK
LOT

~~XXXXXXXX~~ TOWN New Windsor, Orange County

20-
14-
2-
Hardenburgh

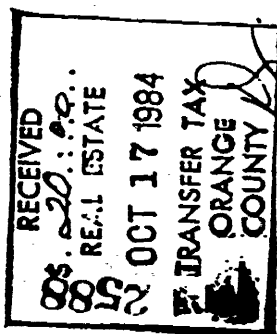
RETURN BY MAIL TO:

Thomas Hadaway
180 Main Street
Hosken, N.Y.

Zip No.

10924

Reserve this space for use of Recording Office.



2302 PG

39

Orange County Clerk's Office, S.S.
Recorded on the 17th day
of Oct. 1984 at 2:30 p.m.
Book 11, M. in Liber 32
Examined.
M. S. Murphy
Clerk